

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2084 of 1998

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DAXABEN JITENDRAKUMAR PATEL

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MR BR PARikh for Petitioner
MR AMIT J SHAH for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE R.P.DHOLAKIA

Date of decision: 29/06/98

ORAL JUDGEMENT (Per: Y.B.Bhatt,J.)

We have heard learned counsel for the respective parties, perused their respective affidavits as well as other documents on record. The first aspect on which we find that there cannot be any controversy is in respect of the year 1997-98. The respondent Corporation has produced copy of a special notice issued under Rule 15(2) read with Rule 20(2) of the Taxation Rules under the Bombay Provincial Municipal Corporation Act, wherein it is shown that the said special notice was served on the petitioner on 31st December, 1997. Said notice is a

statutory notice, and as is required under the relevant rules, the notice specifically provides an opportunity to the assessee to file objections to the said notice within 15 days from the date of service. Thus, although the petitioner had 15 days time to file objections commencing from 31st December, 1997, the respondent Corporation without waiting for the expiry of the said period, issued the impugned bill on 3rd January, 1998. Clearly therefore, the said bill is in violation of the statute and is required to be struck down. We, accordingly, quash and set aside the said bill.

.RS 2

#. Other controversy pertains to the assessment year 1992-93. As seen from page 15 of the compilation, the Corporation was to give effect to the reduced GRV (Rs.600/- per annum) as per the judgment in the cited Municipal Valuation Appeal, in respect of the years 1987-88 to 1992-93. This is specifically noted in the official register of the respondent Corporation, namely, the Property Tax Demand Register, the abstract whereof is produced on record. However, it appears that so far as the year 1992-93 is concerned, effect has not been given to said judgment, although the same register indicates that for the subsequent years, namely, 1993-94, 1994-95, 1995-96 and 1996-97, effect has been given by accepting the GRV at Rs.600/- per annum. In this context, we are required to direct the respondent Corporation to give effect to the demand pertaining to the year 1992-93 by computing the said demand for the said year on the basis that the GRV for the relevant year is Rs.600/-. Consequently, the demand made by the Corporation as against the petitioner in respect of the year 1992-93 shall stand revised accordingly, and all subsequent demands which would include the calculation of interest, penalty, notice fee, etc. etc. is also required to be revised. We direct the respondent Corporation to carry out this exercise within six weeks from today.

#. Furthermore, we are required to consider the question of arrears of tax shown by the Corporation in its demand register in respect of the year 1992-93. We note that the Court has fixed GRV at Rs.600/- from the year 1987-88 onwards, that is to say, for the years 1987-88, 1988-89, 1989-90, 1990-91 and 1991-92. Thus, so far as the periods 1987-88 to 1991-92 is concerned, the Corporation shall determine the tax on the basis of said GRV (if it has not done so), and depending on when the actual payments in respect of the relevant years were made by the petitioner, recompute and recalculate the amount of interest, penalty, notice fee, etc. etc. We

direct the respondent Corporation to carry out this exercise also within six weeks from today.

#. In view of the aforesaid directions, in our opinion, no other grievance exists in this petition. The same is, therefore, dismissed. Notice is discharged with no orders as to costs.

(Y.B.Bhatt,J.)

(R.P.Dholakia,J.)

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